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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,568	02/12/2004	Wayne Douglas Trantow	1628-3664	6007
20575 7590 04/11/2008 MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204				
EXAMINER				
COLLINS, DOLORES R				
ART UNIT		PAPER NUMBER		
3711				
MAIL DATE		DELIVERY MODE		
04/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/777,568

Applicant(s)

TRANOW, WAYNE DOUGLAS

Examiner

Dolores R. Collins

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/10/08.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 24-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23 & 29-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Examiner acknowledges response by applicant's representative received 1/10/08. Examiner further acknowledges the addition of claims 29-30.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 11-23 & 29-30 are rejected under 35 U.S.C. 102(b) as anticipated by Brumlik (349).

Brumlik discloses Framework Molecular Orbital Model Assembly.

Regarding claims 11-16, 18-20, 22-23 & 29-30

Bromwich teaches all the limitations of these claims.

Regarding claim 17

Brumlik teaches in fig. 4, a tubular shaft that may be cut to a selected length while preserving the ability to receive end tabs.

Regarding claim 21

Brumlik teaches in fig. 4 a node pin with an outer diameter (see (44)) and a second lesser diameter (see (42)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-23 & 29-30 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ochrymowich (011).

Ochrymowich discloses Deformable Tubular Rods With Deformable Sheet Material Connectors.

Regarding claims 11-16, 18-20, 22-23 & 29-30

Ochrymowich teaches all the limitations of these claims

Regarding claim 17

Ochrymowich teaches tubular struts with predetermined inner diameter (in other words, hollow) (see fig. 18 and col. 3, lines 57-64).

Regarding claim 21

Ochrymowich fails to explicitly teach pins with first outer diameter and a second lesser outer diameter. Applicant has however failed to demonstrate criticality of such. It would have been an obvious matter of design choice to make different portions of the pin of whatever relative sizes desired, since a modification would have involved a mere change in the proportions of components. A change in proportion is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 129 USPQ 402.

Response to Arguments

Applicant's arguments filed 1/10/08 have been fully considered but they are not persuasive.

Applicant argues The Ochrymowich differs from applicant's invention in that the struts of Ochrymowich fail to have planar end for face to face orientation. Examiner

disagrees. Figure 5 teaches a connector with arms that are not angled that could lend to face to face orientation.

Applicant argues that the struts of Brumik are not flexible. Brumik teaches in col. 4, lines 18-33, tubing sections (struts) that are "preferable elastomeric plastic extrusions". Inherent in this teaching is material of a flexible nature.

Applicant is invited to schedule a telephone interview to better articulate the novelty of his invention. This action is made final.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Dolores R. Collins** whose telephone number is **(571) 272-4421**. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Eugene Kim** can be reached on **(571) 272-4463**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call **800-786-9199** (IN USA OR CANADA) or **571-272-1000**.

/Dolores R. Collins/
Examiner, Art Unit 3711
4/8/08

/Gene Kim/

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Supervisory Patent Examiner, Art Unit 3711